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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,374	10/17/2003	Richard Boroviak	1652.68547	2235
24978	7590	12/19/2005		
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			EXAMINER CHAN, KO HUNG	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,374

Applicant(s)

BOROVIK, RICHARD

Examiner

Korie H. Chan

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 13-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/7/03 & 03/11/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 11 and 12 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/30/2005.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 and 13-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Throughout independent claims 1, 13, and 16, applicant has defined the first and second distal and proximal brace members as having "an adjustably positioned section defining a first support surface and second support surface" and later in the claim defines the first and second support surfaces are perpendicular which are vague and indefinite as it is not in accordance with the description of the invention. As disclosed in the specification, the adjustably positioned sections are members 130, 140 in figures 7, 8 do not have the first and second perpendicular support surfaces or portions (72 and 70, figure 6). It is the fixedly positioned section that defines or comprises the first and second perpendicular support surfaces or portion. Further claim 1, lines 9-11, applicant recites that "the first support surface is adapted to be connected to the distal vertical support member, and the second support surface is adapted to be connected to the distal vertical support

Art Unit: 3632

member”; however, the perpendicular first and second support surfaces cannot both be connected to two vertical support members as recited. It appears applicant means to say that the first support surface is adapted to be connected to a horizontal support member. Correction required. Further in claim 1, line 23, “the first hinge assembly” lacks antecedent basis. Further regarding claims 8, 15, and 17, it is not clear which of the plurality of “brace members” contains the plurality of fastening holes. If applicant means to say all brace members, examiner suggests using language “all of the brace members”. Regarding claims 9 and 10, “a fixedly positioned section and an adjustably positioned section” should be corrected to “the fixedly positioned section and the adjustably positioned section” to show antecedence for the previously recited “a fixedly positioned section and an adjustably positioned section” in claim 1.

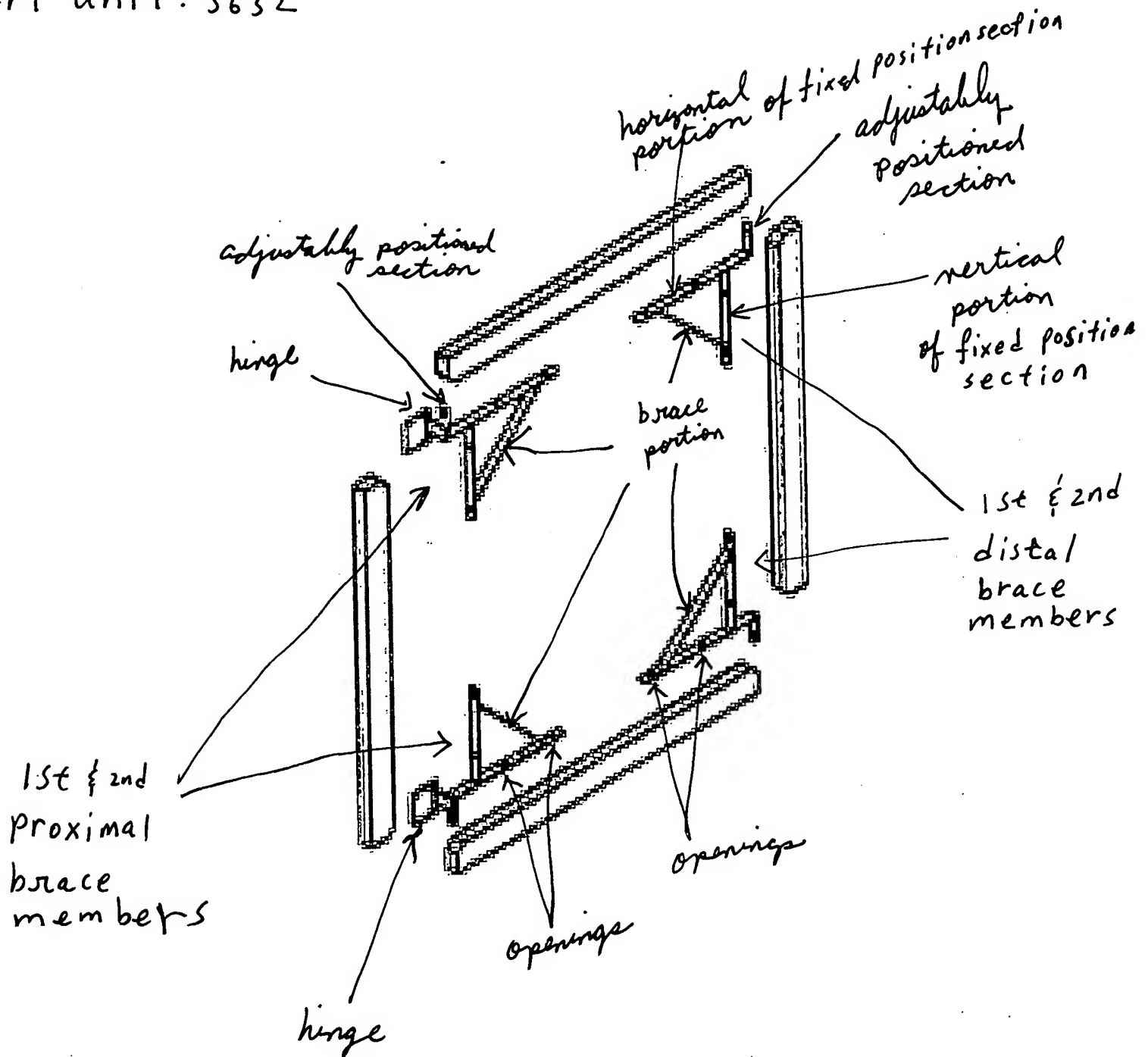
Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 and 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Artisticironworks web publication of March 5, 2001. Artisticironworks disclosed all the claimed features of applicant’s invention including four brace members each with adjustably positioned sections being the upturned piece as illustrated in the next page where such adjustably positioned sections can be adjustably positioned along the support structure.



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Artisticironworks web publication of March 5, 2001 in view of Blessing (Patent no. 224,863). Artisticironworks disclosed all the claimed features of applicant's invention except for providing an adjustably positioned section slidably connected to the fixed position section along horizontal axis. Blessing teaches in a bracket system of providing an adjustably positioned section (B, figure 9) slidably connected to the fixed position section (C, figure 9) along horizontal axis for attachment to support members of various widths (page 1, lines 9-12). It would have been obvious to one of ordinarily skilled in the art to have modify the adjustably positioned section of Artisticironworks such that the adjustably positioned section is provided to slidably connected with the fixed positioned section for attachment to support members of various widths as taught to be desirable by Blessing.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art of record demonstrate various brackets with brace between vertical and horizontal portions.

Art Unit: 3632

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 571-272-6816. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Korie H. Chan
Primary Examiner
Art Unit 3632

khc
December 7, 2006